

1 the State proved beyond a reasonable  
2 doubt all the essential elements of any  
3 one or more of the offenses charged in  
4 the separate counts in the indictment,  
5 your verdict must be guilty as to such  
6 offense or offenses according to your  
7 findings.

8 If you find that the State failed  
9 to prove beyond a reasonable doubt any  
10 one of the essential elements of any one  
11 or more of the offenses charged in the  
12 separate counts in the indictment, your  
13 verdict must be not guilty as to such  
14 offense or offenses according to your  
15 findings.

16 The charges set forth in each count  
17 in the indictment constitute a separate  
18 and distinct matter. You must consider  
19 each count and the evidence applicable to  
20 each country separately, and you must  
21 state your finding as to each count  
22 uninfluenced by your verdict as to any  
23 other count. The defendant may be found  
24 guilty or not guilty of any one or all of  
25 the offenses charge.

1           Verdict. You will have with you in  
2           the jury room the following forms of  
3           verdicts. No inference is to be drawn  
4           from the order in which the Court reads  
5           these verdicts.

6           I will now read to you the verdict  
7           forms. Counts 1 through 6, it is the  
8           same format. Count 7 is just a little  
9           different but simpler.

10          Count 1 has the heading of the  
11          case, State of Ohio v. Fredrick Hall, the  
12          case number, jury verdict, and my name on  
13          it.

14          "Count 1. We, the jury in the  
15          above-captioned case, do hereby find  
16          the defendant, Fredrick Hall guilty of  
17          the offense of felonious assault of Kevin  
18          Davis as charged in Count 1 of the  
19          indictment."

20          There are signature lines for all  
21          12 of you to sign. As I will explain  
22          later, this is a criminal case. For any  
23          verdict, all of you must agree. There's  
24          a signature line here for the foreperson.  
25          If you find the defendant guilty of Count

1 1, then, as indicated in the instruction,  
2 then you proceed to the specifications.

3 Specification 1 to Count 1, "We,  
4 the jury in the above-captioned case do  
5 hereby find the defendant, Fredrick Hall,  
6 guilty/not guilty, (circle one) of the  
7 first specification to Count 1,  
8 specifically that the felonious assault  
9 of Kevin Davis was committed while the  
10 defendant had a firearm on or about his  
11 person or under his control."

12 There is also a Specification 2 to  
13 Count 1. "We, the jury, in the  
14 above-captioned case do hereby find the  
15 defendant, Fredrick Hall guilty/not  
16 guilty (circle one) of the second  
17 specification to Count 1, specifically  
18 that the felonious assault of Kevin Davis  
19 was committed while the defendant had on  
20 or about his person a firearm, that the  
21 defendant displayed the firearm,  
22 brandished the firearm or indicated that  
23 he possessed a firearm, or used it to  
24 facilitate the offense as alleged in  
25 Count 1." There are 12 signature lines.

1           There is a third specification to  
2       Count 1. "Specification 3 to Count 1.  
3       We, the jury, in the above-captioned case  
4       do hereby find the defendant, Fredrick  
5       Hall, guilty/not guilty of the offense,  
6       (circle one) of the third specification  
7       to Count 1, specifically that the  
8       felonious assault of Kevin Davis included  
9       as an essential element or knowingly  
10      causing or attempting to cause death or  
11      physical harm to another by discharging a  
12      firearm from a motor vehicle, other than  
13      a manufactured home." There are 12  
14      signature lines.

15           There is an instruction, "Please  
16      proceed to Count 2.

17           The other verdict form is not  
18      guilty. "We, the jury, in the  
19      above-captioned case, do hereby find the  
20      defendant, Fredrick Hall, not guilty of  
21      felonious assault of Kevin Davis, as  
22      charged in Count 1 of indictment."

23           If this is your finding, there are  
24      12 signature lines. You don't consider  
25      the specifications. You go directly to

1 Count 2.

2 Count 2, again, is virtually the  
3 same as Count 1.

4 "We, the jury, the above-captioned  
5 case, do hereby find the defendant,  
6 Fredrick Hall, guilty of felonious  
7 assault of Johann Hart, as charged in  
8 Count 2 of the indictment."

9 Do you have the indictment? I'm  
10 pretty sure Count 2 is Kevin Davis.

11 Yes. I made that change. Just a  
12 typo. There is 12 signature lines.  
13 "...felonious assault of Kevin Davis, as  
14 charged in Count 2 of the indictment."  
15 There are 12 signature lines.

16 Again, if you find the defendant  
17 guilty on Counts 1 through 6 on any of  
18 the counts, you have to consider the  
19 specifications.

20 Specification 1 to count 2 is, "we,  
21 the jury, in the above-captioned case, do  
22 hereby find the defendant, Fredrick Hall,  
23 guilty/not guilty (circle one) of the  
24 first specification to Count 2,  
25 specifically that the felonious assault

1 of Kevin Davis was committed while the  
2 defendant had a firearm on or about his  
3 person or under his control."

4 There are 12 signature lines.

5 Specification 2 to Count 2. "We,  
6 the jury, in the above-captioned case, do  
7 hereby find the defendant, Fredrick Hall,  
8 guilty/not guilty, (circle one) of the  
9 second specification to Count 2,  
10 specifically that the felonious assault  
11 of Kevin Davis was committed while the  
12 defendant had on or about his person or  
13 under his control a firearm, that the  
14 defendant displayed the firearm,  
15 brandished the firearm, indicated that he  
16 possessed a firearm, or used it to  
17 facilitate the offense as alleged in  
18 Count 2."

19 Specification 3 to Count 2. We,  
20 the jury, in the above-captioned case, do  
21 hereby the find the defendant, Fredrick  
22 Hall, guilty/not guilty of the offense  
23 (circle one) of the third specification  
24 to Count 2, specifically that the  
25 felonious assault of Kevin Davis,

1 included as an essential element,  
2 purposely or knowingly causing or  
3 attempting to cause the death or physical  
4 harm of another, by discharging a firearm  
5 from a motor vehicle, other than a  
6 manufactured home." There are 12 jury  
7 signature lines.

8 The other verdict form for Count 2,  
9 "We, the jury, in the above-captioned  
10 case, do hereby find the defendant,  
11 Fredrick Hall, not guilty of the offense  
12 of felonious assault of Kevin Davis, as  
13 charged in Count 2 of the indictment."

14 If you find the defendant not  
15 guilty of Count 2, please proceed to  
16 Count 3."

17 Count 3, "We, the jury, in the  
18 above-captioned case, do hereby find the  
19 defendant, Fredrick Hall, guilty of the  
20 offense of felonious assault of Johann  
21 Hart as charged in Count 3 of the  
22 indictment."

23 "If you had find the defendant  
24 guilty, then please proceed to the  
25 specifications."

1                   Specification 1 to Count 3 -- and  
2                   it is by law that I have to read all of  
3                   those to you. "We, the jury, in the  
4                   above-captioned case do hereby find  
5                   defendant, Fredrick Hall, guilty/not  
6                   guilty (circle one) of the first  
7                   specification to Count 3, specifically  
8                   that the felonious assault of Johann  
9                   Hart was committed while the defendant  
10                  had a firearm on or about his person or  
11                  under his control," and there are 12  
12                  signature lines.

13                  "Specification 2 to Count 3. We,  
14                  the jury, in the above-captioned case, do  
15                  hereby find the defendant, Fredrick Hall,  
16                  guilty/not guilty (circle one) of the  
17                  second specification to Count 3,  
18                  specifically that the felonious assault  
19                  of Johann Hart was committed while the  
20                  defendant had on or about his person or  
21                  under his control a firearm, that the  
22                  defendant displayed the firearm,  
23                  brandished the firearm, indicated that he  
24                  possessed a firearm or used it to  
25                  facilitate the offense as alleged in



1 Count 3."

2 Specification 3 Count 3. We, the  
3 jury, in the above-captioned case, do  
4 hereby find the defendant, Fredrick Hall,  
5 guilt/not guilty of the offense (circle  
6 one) of the third specification to Count  
7 3, specifically that the felonious  
8 assault of Johann Hart included as an  
9 essential element, purposely or knowingly  
10 causing or attempting to cause death or  
11 physical harm of another by discharging a  
12 firearm from a motor vehicle other than a  
13 manufactured home." There's signature  
14 lines and instructions to proceed to  
15 Count 3."

16 Count 3, "We, the jury not the  
17 above-captioned case, do hereby find the  
18 defendant, Fredrick Hall, not guilty of  
19 felonious assault of Johann Hart, as  
20 charged in Count 3 of indictment."

21 "If you find the defendant not  
22 guilty of Count 3, please proceed to  
23 Count 4."

24 Count 4. "We, the jury, in the  
25 above-captioned case, do hereby find the

1 defendant, Fredrick Hall, guilty of the  
2 offense of felonious assault of Johann  
3 Hart, as charged in the Count 4 of the  
4 indictment." There are 12 signature  
5 lines.

6 If you find the defendant guilty,  
7 you will then proceed to Specification 1  
8 to Count 4.

9 We, the jury, in the  
10 above-captioned case, do hereby find the  
11 defendant, Fredrick Hall guilty/not  
12 guilty of the offense (circle one) of the  
13 first specification to Count 4,  
14 specifically that the felonious assault  
15 of Johann Hart was committed while the  
16 defendant had a firearm on or about his  
17 person or under his control."

18 Specification 2 to Count 4. "We,  
19 the Jury, in the above-captioned case, do  
20 hereby find the defendant, Fredrick Hall,  
21 guilty/not guilty (circle one) of the  
22 second specification to Court 4,  
23 specifically that the felonious assault  
24 was committed while the defendant had on  
25 or about his person or under his control

1 a firearm, that the defendant displayed  
2 the firearm, brandished the firearm,  
3 indicated that he possessed a firearm or  
4 used it to facilitate the offense as  
5 alleged in Count 4."

6 Specification 3 Count 4, "We, the  
7 Jury, in the above-captioned case, do  
8 hereby find the defendant, Fredrick Hall,  
9 guilty/not guilty (circle one) of the  
10 third specification to Count 4,  
11 specifically that the felonious assault  
12 of Johann Hart included as an essential  
13 element, purposely or knowingly causing  
14 or attempting cause death or physical  
15 harm to another, by discharging a firearm  
16 from a motor vehicle other than a  
17 manufactured home."

18 "Please proceed to Count five."

19 The other verdict form to Count 4  
20 reads, "We, the jury, in the  
21 above-captioned case, do hereby find the  
22 defendant, Fredrick Hall, not guilty of  
23 the offense of felonious assault of  
24 Johann Hart, as charged in the Count 4 of  
25 the indictment."

1                   If you find the defendant not  
2                   guilty in Count 4, please proceed  
3                   directly to Count 5."

4                   Count 5. "We, the jury, in the  
5                   above-captioned case, do hereby find the  
6                   defendant, Fredrick Hall, guilty of the  
7                   offense of attempt (murder) of Kevin  
8                   Davis, as charged in Count 5 of the  
9                   indictment."

10                  "If you find defendant guilty,  
11                  please proceed to specifications."

12                  "Specification 1 to Count 5. We,  
13                  the jury, in the above-captioned case do  
14                  hereby find of the defendant, Fredrick  
15                  Hall guilty/not guilty (circle one) of  
16                  the first specification to Count 5,  
17                  specifically that the attempt (murder) of  
18                  Kevin Davis was committed while the  
19                  defendant had a firearm on or about his  
20                  person or under his control."

21                  "Specification 2 to Count 5. We,  
22                  the jury, in the above-captioned case do  
23                  hereby find of the defendant Fredrick  
24                  Hall guilty/not guilty (circle one) of  
25                  the second specification to Count 5,

1 specifically that attempt (murder) of  
2 Kevin Davis was committed while the  
3 defendant had on or about his person or  
4 under his control a firearm, that the  
5 defendant displayed the firearm,  
6 brandished the firearm, indicated that he  
7 possessed a firearm or used it to  
8 facilitate the offense as alleged in  
9 Count 5."

10 "Specification 3 to Count 5. "We,  
11 the Jury, in the above-captioned case, do  
12 hereby find the defendant, Fredrick Hall,  
13 guilty/not guilty (circle one) of the  
14 third specification to Count 5,  
15 specifically that the attempt (murder) of  
16 Kevin Davis included as an essential  
17 element, purposely or knowingly causing  
18 or attempting to cause death or physical  
19 harm to another, by discharging a firearm  
20 from a motor vehicle other than a  
21 manufactured home."

22 There are 12 signature lines and an  
23 instruction to proceed to count 6.

24 The other verdict form for Count 5  
25 reads, "we, the jury, in the

1           above-captioned case, do hereby find the  
2           defendant, Fredrick Hall, not guilty of  
3           the offense of attempt (murder) of Kevin  
4           Davis, as charged in Count 5 of the  
5           indictment."

6                     "If you find the defendant not  
7           guilty on Count 5, please proceed to  
8           Count 6."

9                     Count 6. "We, the jury, in the  
10          above-captioned case, do hereby find the  
11          defendant, Fredrick Hall, guilty of the  
12          offense of attempt (murder) of Johann  
13          Hart, as charged in Count 6 of the  
14          indictment."

15                    If you find the defendant guilty of  
16          Count 6, please proceed to Specification  
17          1 to Count 6."

18                    "We, the jury, in the  
19          above-captioned case do hereby find of  
20          the defendant Fredrick Hall guilty/not  
21          guilty (circle one) of the first  
22          specification to Count 6, specifically  
23          that the attempt (murder) of Johann Hart  
24          was committed while the defendant had a  
25          firearm on or about his person or under

1 his control."

2 specification 2 to Count 6. We,  
3 the jury, in the above-captioned case do  
4 hereby find of the defendant Fredrick  
5 Hall guilty/not guilty (circle one) of  
6 the second specification to Count 6,  
7 specifically that attempt (murder) of  
8 Johann Hart was committed while the  
9 defendant had on or about his person or  
10 under his control a firearm, that the  
11 defendant displayed the firearm,  
12 brandished the firearm, indicated that he  
13 possessed a firearm or used it to  
14 facilitate the offense as alleged in  
15 Count 6.

16 "Specification 3 to Count 3. We,  
17 the Jury, in the above-captioned case, do  
18 hereby find the defendant, Fredrick Hall,  
19 guilty/not guilty (circle one) of the  
20 third specification to Count 6,  
21 specifically that the attempt (murder) of  
22 Johann Hart included as an essential  
23 element, purposely or knowingly causing  
24 or attempting cause death or physical  
25 harm to another, by discharging a firearm

1 from a motor vehicle other than a  
2 manufactured home."

3 There are 12 signature lines and an  
4 instruction to proceed to Count 7.

5 The other verdict form for Count 6  
6 reads, "We, the jury, in the  
7 above-captioned case, do hereby find the  
8 defendant, Fredrick Hall, not guilty of  
9 the offense of attempt (murder) of Johann  
10 Hart, as charged in Count 6 of the  
11 indictment."

12 There are 12 signature lines and an  
13 instruction to proceed to Count 7.

14 Count 7. "We, the jury, in the  
15 above-captioned case, do find the  
16 defendant, Fredrick Hall, not guilty of  
17 the offense of failure to comply with an  
18 order or signal of a police officer, as  
19 charged in Count 7 of the indictment."  
20 And there are 12 signature lines.

21 "We, the jury, in the  
22 above-captioned case, do find the  
23 defendant, Fredrick Hall, guilty of the  
24 offense of failure to comply with an  
25 order or signal of a police officer, as



1 charged in Count 7 of the indictment."

2 And there are 12 signature lines.

3 You will have 14 forms of verdict.

4 You will return seven verdict forms duly  
5 signed by all 12 jurors.

6 The question of what punishment, if  
7 any, that follows a conviction in this  
8 case is of no concern to you as jurors.  
9 This is the concern and duty of the  
10 Court.

11 Therefore, the question of  
12 punishment is not to enter into your  
13 consideration or your deliberations.

14 A criminal case requires the  
15 concurrence of all members of the jury.  
16 So when all 12 of you have agreed, you  
17 will all sign the verdict on which you  
18 agreed on the blank lines indicated on  
19 the verdict form.

20 The Court will provide you with the  
21 verdict forms and the exhibits presented  
22 during the case.

23 When you go to the jury room, your  
24 first duty will be to choose a foreperson  
25 who acts like a chairperson of a meeting.

1 The foreperson is to see that  
2 deliberations are conducted in an orderly  
3 fashion and that everyone has an  
4 opportunity to participate in the  
5 deliberations. Otherwise, the foreperson  
6 is the same as any other juror.

7 The foreperson will retain  
8 possession of the verdict forms and the  
9 exhibits and return them to the  
10 courtroom.

11 Alternate juror. Mr. Tresh, at  
12 this time, we are going to have to  
13 dispense with your services. None of the  
14 contingencies for which you were selected  
15 have come about. You are released at  
16 this time with the admonition that you  
17 will not tell anyone how you voted in  
18 this case until such time as the regular  
19 members of the panel have reached a  
20 verdict and that verdict has been read in  
21 open court.

22 The Court has instructed you on all  
23 the law necessary for your deliberations.  
24 Whether or not certain instructions are  
25 applicable may depend upon the

1 conclusions you reach from the facts.

2 If you have an impression that the  
3 Court indicated how any disputed fact  
4 should be decided, you must put aside  
5 such impression because you determine  
6 such matters.

7 Your initial conduct upon  
8 commencing deliberations is a matter of  
9 importance. It is not wise to express  
10 immediately a determination to insist  
11 upon a certain verdict.

12 Having so expressed yourself, your  
13 sense of pride may be aroused, and you  
14 may hesitate to give up your position  
15 even if shown that it is not correct.

16 Consult with one another in the  
17 jury room and deliberate with a view to  
18 reaching an agreement, if you can do so  
19 without disturbing your individual  
20 judgment. Each of you must decide this  
21 case for yourself. You should do so,  
22 however, only after discussion of the  
23 case with the other jurors.

24 Do not hesitate to change an  
25 opinion if convinced that it is wrong.

1           However, you should not surrender your  
2           considered opinion concerning the weight  
3           of the evidence in order to be congenial  
4           or to reach a verdict solely because of  
5           the opinion of other jurors.

6           Now, ladies and gentlemen, you  
7           recall that you all stood up and raised  
8           your right hand and you took an oath, and  
9           you said that you would fairly and  
10          impartially determine this case on the  
11          basis of the law and the evidence.

12          I know you will carry out that  
13          oath. I know you will not be influenced  
14          by any feelings of bias, prejudice, or  
15          sympathy.

16          I know that you will carry out your  
17          oath, which is to determine this case  
18          fairly and impartially, solely on the  
19          basis of the law as the Court has given  
20          it to you and the facts as you determine  
21          them to be from the evidence.

22          The Court will place in your  
23          possession the exhibits and the verdict  
24          forms. The foreperson will retain  
25          possession of these records, including

1 the verdict, and return them to the  
2 courtroom.

3 Until your verdict is announced in  
4 open court, you are not to disclose to  
5 anyone else the status of your  
6 deliberations or the nature of your  
7 verdict.

8 Counsel, do you have anything you  
9 would like to add?

10 MR. ANDERSON: I do, your Honor.

11 (Whereupon, an off-the record  
12 discussion was held in chambers.)

13 THE COURT: Okay. Mr. Anderson,  
14 has pointed out one omission from the  
15 offense that goes in Count 7. Count 7  
16 reads as follows. "Defendant is charged  
17 with failure to comply with an order or  
18 signal of a police officer. Before you  
19 can find the defendant guilty, you must  
20 find beyond a reasonable doubt that on or  
21 about the 17th day of October, 1998, and  
22 in Hamilton County, Ohio the defendant  
23 operated a motor vehicle, so as to  
24 willfully elude or flee a police officer,  
25 after receiving a visible or audible

1 signal from a police officer to bring his  
2 motor vehicle to a stop. And this is the  
3 stuff I'm adding, "and in committing such  
4 offense, the defendant was fleeing  
5 immediately after the commission of a  
6 felony," and I have added that in there.

7 You will now retire. First select  
8 a foreperson, and then when all 12 jurors  
9 agree upon the verdict, you will sign the  
10 verdicts in ink and advise the bailiff by  
11 using the buzzer in the jury room. You  
12 will then be returned to the courtroom.

13 Ladies and gentlemen, you're now  
14 free to begin your deliberations in this  
15 case, obviously all of admonitions that I  
16 have given you up to now about not coming  
17 to any conclusions about the case are  
18 lifted. A few other points, if you go  
19 back -- and I suspect you will -- you  
20 will break for lunch. That's fine, but  
21 the same admonitions apply. Do not  
22 discuss the case except when all 12 of  
23 you are not in the room. Do not discuss  
24 in case among yourselves or with anyone  
25 until all 12 of you are in the jury room,

1 with the door shot.

2 If you go to lunch, People will  
3 trickle, if you want to look at the  
4 exhibit, individually, that's fine. Don't  
5 discuss the case until all of 12 you are  
6 not room with the door shut much you have  
7 the benefit of each others knowledge and  
8 recollection about the evidence? If you  
9 have questions or questions arise, have  
10 the foreperson, whoever that is, put them  
11 in writing, use the buzzer, and Jill will  
12 show you, if she hasn't already, where  
13 the buzzer is. I won't guarantee that I  
14 can answer all of questions that you ask,  
15 but on the other hand, you may never  
16 know, until you ask. Some juries have a  
17 lot of questions, some don't have any.  
18 The speed and pace of your deliberation,  
19 it's entirely up to you. You can go as  
20 fast as you want or as slow as you want.  
21 We are here to serve you at this point in  
22 time. And with that, if you decide to  
23 take a break, buzz, and just -- if you  
24 decide to break for lunch, buzz and tell  
25 us. We don't need to bring you in. We

1 do need you to bring in here forms and  
2 the exhibits at the end of the day. With  
3 that, you free to begin your  
4 deliberations. Thank you.

5 (The jury left the courtroom to  
6 begin their deliberations at 1:18 p.m.)  
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## 1 CERTIFICATE

2 I, Deborah Kahles, RPR, the undersigned, an  
3 Official Court Reporter for the Hamilton County  
4 Court of Common Pleas, do hereby certify that  
5 at the same time and place stated herein, I  
6 recorded in stenotype and thereafter  
7 transcribed the within pages, and that the  
8 foregoing Transcript of Proceedings is a true,  
9 complete, and accurate transcript of my said  
10 stenotype notes.

11 IN WITNESS WHEREOF, I hereunto set my  
12 hand this 19th day of July, 2007.

13  
14  
15 Deborah Kahles, RPR  
16 Official Court Reporter  
17 Court of Common Pleas  
18 Hamilton County, Ohio  
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1 MORNING SESSION, May 5, 1999  
2 (Jury began deliberating at 9:00  
3 a.m.)  
4 (The following discussion was held  
5 in chambers at 10:53 a.m. with the  
6 foreperson, Ms. West.)

7 THE COURT: Hi, Ms. West. How are  
8 you doing? Have a seat.

9 We are in chambers right now.

10 Ms. West, Mrs. Schweir has  
11 indicated to me that you've raised some  
12 concerns with her that you and perhaps  
13 some of the other jurors have concerning  
14 one of the jurors who had a relative shot  
15 in the neck or some injury?

16 FOREPERSON WEST: Yes. And I  
17 didn't know the proper protocol, but I  
18 felt like I had to ask the bailiff to  
19 have the judge to give some direction.

20 THE COURT: What exactly is going  
21 on?

22 FOREPERSON WEST: There were 12 of  
23 us sitting around the table discussing  
24 the case, and we were polling people to  
25 try and reach some type of a verdict on

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1 Count 1, because we can't seem to get  
2 anywhere beyond that unless we establish  
3 some credibility on Count 1, and one  
4 juror -- and if I need to name her,

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5 that's fine.

6 THE COURT: Not right now.

7 FOREPERSON WEST: She said, she

8 passed on the first go-around. We were

9 taking turns questioning people and going

10 around since I didn't know how to do this

11 and no one else did.

12 She passed the first time, and the

13 next person gave their indication. Some

14 said guilty, not guilty, some said no

15 opinion yet.

16 We were still discussing it, and

17 when we came back to her, I asked her if

18 she was ready to give an opinion. And at

19 that point is when she said, "There is no

20 credibility in any of the police

21 officers' testimony. I do not believe

22 anything the police officers say. My son

23 was just shot and died. He was shot in

24 the left side of the neck. The bullet

25 went into the neck, and the police

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1 officers ruled it a suicide, and my son

2 is right handed."

3 well, we all sat there stunned. I

4 mean, everybody.

5 THE COURT: Okay. The question is,

6 is your concern that this juror went into

7 this not being able to accept police

8 testimony, or had she said something like

9 that?

10 FOREPERSON WEST: Yes, previously

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11 she said this person is totally not  
12 guilty. She doesn't believe the  
13 testimony, the credibility of witnesses  
14 that were shot. She doesn't believe the  
15 police officers, and that's when she made  
16 this comment.

17 THE COURT: She's free, of course,  
18 to believe or disbelieve anybody she  
19 wants to believe. Okay. All right. Was  
20 there anything else that she said that  
21 you can think of?

22 FOREPERSON WEST: Yesterday, the  
23 reason we did not reach any opinion is  
24 because if anyone questioned anything  
25 that was said, she immediately attacked

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1 what they said and how they said it and  
2 reflected back on, "You don't believe  
3 me?" Or she assumed an attitude, "why  
4 are you saying that?"

5 THE COURT: Okay. Do you  
6 understand what I am trying to say?

7 FOREPERSON WEST: Yes, I do.

8 THE COURT: All right. Well, thank  
9 you very much.

10 FOREPERSON WEST: I think all of us  
11 have compassion for her now at this  
12 point. That was my main concern.

13 THE COURT: So you're still going  
14 to make an effort to work through the  
15 counts after we hear the testimony read

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16 back?

17 FOREPERSON WEST: We would like to.  
18 We all want to make some type of a  
19 decision.

20 THE COURT: Okay, good. Why don't  
21 I -- that's fine. I appreciate your  
22 time. I'm sorry to disrupt your  
23 deliberations. I appreciate everything  
24 that you have said. Go on back. Jill  
25 will take you back to the jury room, and

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1 we'll get you back as soon as possible.

2 FOREPERSON WEST: How do I handle  
3 going back in there?

4 THE COURT: Go back in there and  
5 say you talked to me. You don't have to  
6 say what it was about. Go back and talk  
7 about the Reds.

8 Thank you very much.

9 (Whereupon, Foreperson West was  
10 excused.)

11 MR. RADER: May I renew my motion  
12 for a mistrial?

13 THE COURT: You can do whatever you  
14 want to. You can make a motion for  
15 mistrial?

16 MR. RADER: Yes, your Honor.

17 THE COURT: What is the State's  
18 point of view right now?

19 MR. ANDERSON: I will go along with  
20 it. I don't want somebody back there who  
21 has made up their mind and not believing

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22 anything that a police officer has to  
23 say.

24 THE COURT: That's her right not to  
25 believe anything that a police officer

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1 says. It's not her right from the  
2 beginning of the case never to have been  
3 willing to believe anything that the  
4 police officer said.

5 MR. ANDERSON: According to what  
6 the foreperson has just stated, she  
7 doesn't believe a word of what the police  
8 said, and she would never believe a word  
9 the police said because of this incident  
10 involving her son. That, to me, is a  
11 predisposition to not give any weight at  
12 all to the police officers' credibility.  
13 She's not weighing their credibility.  
14 She's saying, I don't believe a damn  
15 thing they say because of what happened  
16 to me. That's the first issue.

17 The second issue, which is just as  
18 important, is we took a lot of time  
19 selecting this jury. I went over the  
20 facts of the case. I asked about  
21 gunshots. I asked about guns. I asked  
22 all sorts of things. Certainly any  
23 normal person would raise their hand if  
24 their son had been shot in the neck and  
25 died and said, you know, this sounds

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1 familiar. If she said my son was shot in  
2 the neck and died, we would have explored  
3 that further.

4 My personal opinion is she withheld  
5 that information willingly in order to  
6 interject herself on this jury to fulfill  
7 some agenda that she has.

8 MR. RADER: Your Honor, if I might,  
9 my reason is, I think that this has and  
10 will create so much animosity and  
11 confusion that proper deliberations won't  
12 occur.

13 THE COURT: You guys have had some  
14 stipulations in this case. I guess this  
15 is another one. All right. Off the  
16 record.

17 (Whereupon, a discussion was held  
18 off the record.)

19 THE COURT: Bring Ms. West back in.

20 (Whereupon, the following  
21 discussion was held with Juror West in  
22 chambers:)

23 THE COURT: Is the juror that  
24 you're talking about Ms. Allen?

25 FOREPERSON WEST: Yes. Doris is

1 her first name.

2 THE COURT: Black woman?

3 FOREPERSON WEST: Yes. She sits in  
4 the first row about seven or eight, I  
5 guess.

6 THE COURT: Thank you.  
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7 (Whereupon, Foreperson West was  
8 excused from chambers.)

9 THE COURT: Bring Ms. Allen in, if  
10 you will.

11 (Whereupon, the following  
12 discussion was held with Juror Allen:)

13 THE COURT: Hi, Ms. Allen.  
14 would you have a seat, please.  
15 This won't take long.

16 A couple of the jurors have  
17 mentioned to Jill -- and I'll get to the  
18 point with you, did you have a son that  
19 recently got shot and killed?

20 JUROR ALLEN: Yes, a son-in-law.

21 THE COURT: I'm sorry to hear  
22 that.

23 JUROR ALLEN: It happened in  
24 Chicago.

25 THE COURT: What happened with it?

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1 THE WITNESS: They said he  
2 committed suicide. I just mentioned it  
3 to the jurors in this case.

4 THE COURT: Do you believe that it  
5 was something other than suicide, or do  
6 you believe it was some sort of foul  
7 play?

8 JUROR ALLEN: It was ruled a  
9 suicide?

10 THE COURT: I know it was, but what  
11 do you think?



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12 JUROR ALLEN: It was ruled a  
13 suicide. I was here in the Cincinnati.  
14 He lives in Chicago. I had to go to  
15 Chicago as a mother-in-law, because he  
16 had no other relatives to take care of  
17 the business.

18 THE COURT: That's your --

19 JUROR ALLEN: -- my daughter's  
20 ex-husband.

21 THE COURT: Ex-husband. All right.  
22 Thanks. I appreciate it. I told you it  
23 wouldn't take long.

24 (Whereupon, Juror Allen was excused  
25 from chambers.)

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1 THE COURT: I am bringing them in,  
2 and I'll say, Ladies and gentlemen, you  
3 may have noticed we have talked to  
4 several jurors. At this point, I am  
5 going to declare a mistrial in the case,  
6 and I can't entirely go through the  
7 reasons, but there is going to be a  
8 mistrial declared, and I apologize for  
9 any inconvenience that this was to your  
10 lives.

11 MR. ANDERSON: And, "Thank you, Ms.  
12 Allen?"

13 THE COURT: I probably won't say  
14 that.

15 Let me be honest with you, Jim.  
16 Bill has a right to be bitter. What she  
17 is doing in this case is just anti --

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18 it's anti everything the system is  
19 supposed to stand for, and that's not  
20 right one way or the other, and you both  
21 ought to agree on that.

22 (whereupon, the discussion in  
23 chambers was concluded at 11:23.)

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1                   (Discussion in chambers with Juror  
2           Doris Allen.)

3                   THE COURT: Hi, Ms. Allen. Have a  
4           seat right there. Pat's here taking this  
5           down. The record should reflect we're in  
6           chambers with Doris Allen, one of the  
7           jurors in the State of Ohio vs. Fredrick  
8           Hall.

9                   Ms. Allen, Ms. Schwier came in and  
10          indicated that you have some problems  
11          continuing as a juror in this case.

12                   JUROR ALLEN: Yes.

13                   THE COURT: What is that?

14                   JUROR ALLEN: Well, it began  
15          yesterday with how to proceed with the,  
16          with the deliberations.

17                   THE COURT: Uh-huh.

18                   JUROR ALLEN: And I made a couple of  
19          suggestions. One, mainly since there were  
20          no --

21                   THE COURT: You don't have to tell us  
22          what the suggestions were. We want to  
23          know as little about the deliberations as  
24          possible. Just tell us what happened.

25                   JUROR ALLEN: So that was not

1 acceptable.

2 THE COURT: To the other jurors?

3 JUROR ALLEN: To some of the other  
4 jurors. Everything I had suggested was  
5 not acceptable. As far as I was concerned  
6 their minds had already been made up. And  
7 what I wanted to do was have a discussion  
8 first. So it became a little heated.  
9 Okay? Today I said, well, I talked to  
10 myself and I said well, I'm going to try  
11 to avoid that type of situation.

12 And so today, someone suggested that  
13 we take a poll on the first count. Well,  
14 whatever.

15 THE COURT: I don't want to know what  
16 the count was.

17 JUROR ALLEN: I'm not going to say  
18 the count.

19 THE COURT: Good. We're in agreement  
20 there.

21 JUROR ALLEN: We went around the  
22 room. I passed at first so I was the last  
23 person. And I made a statement as to how  
24 I was going to vote. And I was admonished  
25 and said that -- and I said I was not

1 going to change my mind on that.

2 THE COURT: Uh-huh.

3 JUROR ALLEN: And I had a little  
4 planner, a little tiny small planner that  
5 I put in my purse yesterday when I knew we  
6 were going in there. I sat down and sort  
7 of started going back through my mind on  
8 things I felt were discrepancies and I  
9 made little notes. And then on the steno  
10 pad, I pulled a sheet out and I started  
11 putting pros and cons down. I was writing  
12 this for myself.

13 So I brought this out and then they  
14 immediately started pounding on me that  
15 you're not supposed to take notes. Prior  
16 we were admonished not to take notes. And  
17 I said I was not taking notes during the  
18 session. I took those notes, and several  
19 of them -- I think the whole thing boils  
20 down to the fact that I made the statement  
21 as to how I was going to vote.

22 THE COURT: Was that just as to one  
23 count or all of the counts?

24 JUROR ALLEN: It was the first count.

25 They said well, we must -- I made the

1 statement that I'm not going to change my  
2 mind. And that sort of sent everybody  
3 spinning which I did not understand at  
4 first why it did. They said if you're not  
5 going to change your mind, then we might  
6 as well just leave here.

7 THE COURT: Why do you want to -- what  
8 you're saying is at times it's  
9 uncomfortable in there. What you're  
10 saying is largely some things that happen  
11 frequently during jury trials.

12 Is there anything about this case  
13 that you cannot evaluate the evidence and  
14 follow the law and come to whatever  
15 conclusion you're going to come to?

16 JUROR ALLEN: I felt that I did.

17 THE COURT: Is there any reason why  
18 you can't go back in there and continue to  
19 do that?

20 JUROR ALLEN: Well, I felt that  
21 several people were teaming up to say that  
22 I took those notes prior to that time, and  
23 it was going to be bad.

24 THE COURT: When did you take these  
25 notes?

1 JUROR ALLEN: I took the notes  
2 yesterday in my little planner and sat  
3 there in the room.

4 THE COURT: After the closing  
5 arguments and instructions?

6 JUROR ALLEN: After the closing  
7 arguments. And the only thing I have on  
8 the notes are just some simple things  
9 about --

10 THE COURT: You don't have to tell me  
11 what's on them. You didn't take notes  
12 during the trial?

13 JUROR ALLEN: I didn't take a note  
14 during the trial.

15 THE COURT: Your notes are fine. Is  
16 there any reason -- I guess, is there any  
17 reason why you can't continue to go  
18 through the counts with these folks and  
19 come to whatever conclusion it is you're  
20 going to come to? I mean, evaluating the  
21 law and the evidence as you've heard it?

22 As I told you before, what  
23 conclusions you all come to are the  
24 conclusions you all come to. It really  
25 doesn't -- I have no opinion. My interest

1 is in a fair trial.

2 And my only question for you is I  
3 know it's gotten a little uncomfortable  
4 for you because you've expressed that to  
5 me.

6 Is there any reason why you can't  
7 follow the law and evaluate the evidence  
8 as you see fit and come to whatever  
9 conclusions you can come to?

10 JUROR ALLEN: I have no problem with  
11 that. I wanted to -- we sat in there, and  
12 we had not had an opportunity to discuss  
13 the matter with each other. And that's  
14 all I wanted to do was discuss it and sort  
15 of weed out what we heard, where the  
16 discrepancies were and maybe somebody  
17 heard something that the other person  
18 hadn't heard and it started right in with:  
19 Here's our opinion.

20 Now, they had opinions.

21 THE COURT: Well, hold on. Different  
22 people deliberate differently and you got  
23 12 people. You all did not know each  
24 other before you got in this case. You  
25 all, it's not surprising that you all



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1           would have different approaches as to how  
2           to deliberate.

3           JUROR ALLEN: Right.

4           THE COURT: They may differ as to any  
5   number of things. But can you go back into the  
6   jury room, and follow the law and evaluate the  
7   evidence as you see fit and try and -- you've only  
8   done one count. There's six more to go.

9           JUROR ALLEN: Right.

10          THE COURT: Can you go back in there  
11       and do that?

12          JUROR ALLEN: Yes, I can do that.

13          THE COURT: Good, 'cause that's what  
14       I'm going to ask you to do. All right?

15          JUROR ALLEN: Okay.

16          THE COURT: Thanks. Just go on back.  
17       Go back to the jury room with Jill, and  
18       we've got your questions here and we're  
19       going to try and get those addressed as  
20       soon as possible.

21          JUROR ALLEN: Thank you.

22               (Juror Allen returned to jury room.)

23          THE COURT: Counsel for the State,  
24       anything to add to that?

25          MR. ANDERSON: Well, Judge, I do have

1 a couple of things to add. I mean it  
2 seems to me that she is having a problem  
3 getting along with some of the other  
4 jurors which we all know is a basic fact  
5 of jury deliberations where there are  
6 disagreements.

7 THE COURT: Uh-huh.

8 MR. ANDERSON: It sounds to me, and  
9 I'm not trying to read too much into it,  
10 but it sounds like she is having a  
11 disagreement with the rest of the jurors  
12 as far as the potential verdict on Count  
13 1, and that her vote disagreed with the  
14 rest of the members of the jury. And I'm  
15 just presupposing that from what she  
16 stated.

17 THE COURT: Certainly several of the  
18 other members of the jury.

19 MR. ANDERSON: Right. It sounds to  
20 me, Judge, like she is not going to change  
21 her mind, come hell or high water. And I  
22 know that we've asked her to go back in  
23 deliberations. My personal impression was  
24 that when her suggestions about how to  
25 deliberate were not well received

1           yesterday by the rest of the group, that  
2           she took that personally. And this is  
3           maybe a result of that.

4           My personal opinion is that I think  
5           that at some point, it needs to be  
6           explained that, you know, she has a duty  
7           and an obligation to deliberate. She has  
8           a duty and obligation to listen to the  
9           views of the other jurors.

10          I mean, it sounds to me like it's a  
11          Howard charge situation where, according  
12          to that note, she's made up her mind and  
13          she's not going to change it, come hell or  
14          high water.

15          THE COURT: But they are only on  
16          Count 1.

17          MR. ANDERSON: I'm looking down the  
18          road. If she's going to reach the same  
19          conclusions on Counts 2, 3, 4, 5, 6 and 7,  
20          what I'm saying is we're faced with a  
21          situation where, I don't know, but it  
22          sounded to me from what she said in here  
23          that she's essentially made up her mind  
24          and she is not going to change it and she  
25          is not going to participate fully in the

1 free exchange of ideas that deliberations  
2 require.

3 THE COURT: Okay.

4 MR. ANDERSON: Not that I'm asking  
5 for anything except that maybe down the  
6 road it would be explained to the jury as  
7 a panel that in fact they have a duty and  
8 obligation to listen to the opposing views  
9 of others and maybe decide if they are in  
10 opposition to what the opposing view ought  
11 to be. If so, they are in the minority in  
12 this effort.

13 MR. RADER: I think the crux of what  
14 she said was she is upset because they  
15 wouldn't listen to her explanation and her  
16 reasons. I think that's a normal part of  
17 jury deliberations. I think it should go  
18 to its conclusion, whatever that might be.

19 THE COURT: All right. With regard  
20 to questions, I'm going to ask to bring  
21 the jury in and ask for clarification as  
22 to do they want police testimony, do they  
23 want the wife's testimony, and if so, on  
24 what topics.

25 They say on the note, and this will

1 be marked as Court's Exhibit 1: We need  
2 to check times.

3 There's times all through this case.  
4 Every witness testified as to time. It's  
5 an important portion of the case. I'm not  
6 reading back the entire transcript to  
7 them.

8 Second question they got: Is there a  
9 mandatory sentence for cocaine possession,  
10 penalty for cocaine selling?

11 That's of no significance in this  
12 case. No one in this case was found with  
13 cocaine.

14 MR. ANDERSON: That's not true.  
15 Kevin Davis was found with cocaine.

16 MR. RADER: It's not relevant or  
17 material to the issues in this case.

18 THE COURT: I'm going to say there  
19 are mandatory sentences for cocaine.

20 MR. ANDERSON: Depending on the  
21 amount of cocaine involved.

22 MR. RADER: Just keep it simple.  
23 It's not necessary to decide this case.

24 MR. ANDERSON: What you need to tell  
25 them, I guess what you need to tell them

1 is that cocaine in this case is not  
2 relevant except to the extent that you can  
3 use Kevin Davis's conviction for cocaine  
4 possession in assessing his credibility.

5 MR. RADER: I'd object to that.  
6 That's too much of an instruction.

7 THE COURT: What I'm guessing they  
8 are getting at here is was Kevin Davis  
9 offered any kind of deal to testify.

10 MR. ANDERSON: Which he wasn't and he  
11 testified as such.

12 THE COURT: Go back and look at the  
13 evidence. But the best answer is that  
14 that information is not necessary to  
15 resolve this case. That's your opinion.

16 So how do you want me to answer  
17 this? Is there a mandatory sentence for  
18 cocaine possession, penalty for cocaine  
19 selling?

20 MR. ANDERSON: I mean you can answer  
21 it a bunch of different ways.

22 THE COURT: Depends on how you want  
23 to do it. I'm inclined not to get into it  
24 at all.

25 MR. ANDERSON: That's the way to go.

1 MR. RADER: I agree with that. One  
2 juror says not guilty with no change  
3 emphatically, and we're only on Count 1.

4 That should be ignored, Your Honor.

5 THE COURT: Tell them they have a  
6 duty and obligation, to use Bill's words,  
7 have a duty and obligation to deliberate  
8 with each other, go through seven counts,  
9 see if you can reach a verdict. If you  
10 can't, let us know.

11 MR. RADER: Can I state for the  
12 record an objection to question one? I  
13 think, my interpretation is that they are  
14 asking for the times. And it was a  
15 suggestion by the Court to suggest reading  
16 back either the wife's testimony --

17 MR. ANDERSON: Actually, that's not  
18 specifically -- the testimony of the  
19 police and the wife.

20 THE COURT: I mean the note speaks  
21 for itself. If they want police  
22 testimony, which police officer do they  
23 want. If they want us to pull out times  
24 from the transcript --

25 MR. ANDERSON: My question is they

1 want the testimony of Officer Eatrides who  
2 responded to the Fulton Avenue address,  
3 talked to the wife and was outside the  
4 entire time when the kid was found in the  
5 house.

6 THE COURT: I'm going to ask them  
7 which police officer they want and they  
8 can go back and deliberate and check on  
9 that.

10 So let's line them up, Ms. Schwier,  
11 and let's go through these questions with  
12 them.

13 With regard to the witnesses and the  
14 attorneys on the Johnson and Alexander  
15 case, I haven't forgotten about you.  
16 We've got a jury out right now and they've  
17 got a question. We're going to bring them  
18 in.

19 There are several questions. I'm not  
20 going to answer Number 1, answer another  
21 and ask for a clarification. We've had  
22 quite a few discussions in chambers about  
23 these issues. Because this jury trial has  
24 been going on, this is the sixth day so  
25 I'm going to bring the jury in right now



1 and do that.

2 (Jury entered courtroom at 11:20  
3 a.m.)

4 THE COURT: Ms. West, we've got  
5 questions from the jury and what I'm going  
6 to do is answer them not in the order you  
7 asked them, but I'll mark this as Court's  
8 Exhibit 1. And when we're done --

9 JUROR WEST: Sorry. I should have  
10 written that more plainly.

11 THE COURT: The second question you  
12 asked was: Is there a mandatory sentence  
13 for cocaine possession, penalty for  
14 cocaine selling?

15 I'm not going to answer that. It  
16 really is not relevant in this case. The  
17 defendant was not charged with any drug  
18 offenses in this matter. He's charged  
19 what a number of other things but no drug  
20 offenses. So I'm really not going to get  
21 into answering the question on that.  
22 There's no easy answer and I can't give  
23 you, I'm not going to give you the answer  
24 because the defendant is just simply not  
25 charged with that.

1           The only thing I would remind you, as  
2           I indicated on the instructions, is any  
3           questions of punishment that would follow  
4           a conviction, if any, are not to be  
5           considered by you.

6           The third question is: One juror  
7           votes not guilty with no change  
8           emphatically. We are only on Count 1.

9           My suggestion is to remind you all  
10          that you are to decide this case for  
11          yourselves. As the instructions indicated  
12          you have a duty and an obligation to  
13          deliberate.

14          You're only on Count 1. Let me know  
15          where you stand once you've gone through  
16          all the counts, okay? And however long  
17          that takes, if it takes you another 20  
18          minutes or if it takes you another two  
19          days, let me know where you are when you  
20          get done with all the counts.

21          As the jury instructions indicate,  
22          the counts in a multi-count indictment  
23          like this, each count stands alone and is  
24          to be decided on its own merits. So I  
25          appreciate the situation you're in with

1           regard to Count 1. You've got six more to  
2           go. So if you could deliberate on those,  
3           we'll all appreciate it.

4           The first question you asked, you  
5           have: Police - then you have wife - Ms.  
6           Parker-Hall's testimony at home of Hall.  
7           We need to check times.

8           Which police officer's testimony do  
9           you want read back? I need to know that.  
10          If it's all the police officers' testimony  
11          it probably isn't going to take place.

12          I don't want you to answer right  
13          here. I want you to go back in the room  
14          and tell us what you want. If you want  
15          all the police officers' testimony read  
16          back, I'm probably not going to do that.  
17          But if you just want one of them read  
18          back, plus Ms. Parker-Hall, we can do  
19          that. So figure out which police officer  
20          it is that you want read back.

21          So if you can go back and check  
22          with the other jurors and see if there is  
23          some consensus for one person or whatever,  
24          buzz us and we'll bring you back in. And  
25          then we'll get the testimony prepared as

1 soon as possible. But just let us know.

2 (Jury retired to continue  
3 deliberating at 11:30 a.m.)

4 THE COURT: Let's leave him here for  
5 a few minutes. I think that they are  
6 going to go back and decide what they want  
7 to do. So let's leave him here.

8 (Question from jury at 12:00 noon.)

9 THE COURT: Anybody object to reading  
10 back the testimony?

11 The next question from the jury is we  
12 would like the transcript -- which I will  
13 not give them -- of the officer at the  
14 Hall home, Officer Eatrides -- with a  
15 question mark -- and Ms. Sheila  
16 Parker-Hall. Then they put parens: The  
17 first officer to arrive at the Hall home  
18 on October 17, 1998.

19 Was it Eatrides?

20 MR. ANDERSON: Yes.

21 THE COURT: Then it also says we  
22 would like to have Officer Bailey's  
23 testimony.

24 My policy in these things is I won't  
25 give them transcripts. I'll have it read

1 back.

2 The defense objects to any readback;  
3 is that true?

4 MR. RADER: Yes, Your Honor.

5 THE COURT: State have any objection  
6 to the readback?

7 MR. ANDERSON: No.

8 MR. RADER: May I express my thoughts  
9 on that, Your Honor?

10 THE COURT: Yes.

11 MR. RADER: I believe that it takes  
12 the testimony out of context and adds  
13 improper emphasis to certain parts of the  
14 testimony.

15 They have heard all the evidence in  
16 this case and I believe it should be  
17 submitted to them on equal footing without  
18 any added emphasis, which I think is the  
19 net result of you reading the testimony  
20 back.

21 THE COURT: I will caution them if  
22 just because we are reading it back  
23 doesn't mean it's --

24 MR. RADER: Your Honor, if it please  
25 the Court, too, I would like to make a

1 motion for a mistrial based on Ms. Allen's  
2 testimony in chambers.

3 THE COURT: She didn't testify but  
4 she answered questions. The fundamental  
5 reason I'm going to leave her on the jury  
6 is that she said that she could fairly  
7 review the evidence and follow the law,  
8 and that's all we can ask.

9 The fact that it's gotten  
10 uncomfortable for her back there doesn't  
11 make her different than any other juror  
12 from time to time. The fact that she  
13 spoke up makes her a little unusual but  
14 she can follow the law and apply the  
15 evidence to the law. That's all we can  
16 ask.

17 I understand your objection. It will  
18 be noted until the trial is over. If  
19 there's no objection, since we've had to  
20 take the defendant back up, I'll just go  
21 back and tell them it will take until  
22 about 1:30 to get this together and that's  
23 about when they can expect to have some  
24 testimony read back.

25 Any objection by the defense?

1 MR. RADER: No.

2 THE COURT: Any objection from the  
3 State?

4 MR. ANDERSON: No.

5 THE COURT: I'll go back and tell  
6 them.

7 (Proceedings in jury room as  
8 follows:)

9 THE COURT: We're in the jury room.  
10 I've got your request for transcripts and  
11 I'm going to mark this as Court's Exhibit  
12 2. We don't provide transcripts. What I  
13 will do is I'll read back testimony or  
14 have the testimony read back of Officer  
15 Eatrides, Sheila Parker-Hall, and Officer  
16 Bailey, some of which we've already got in  
17 a close form to getting ready to read  
18 back, some of which is not that close.  
19 What I will tell you is we'll be in a  
20 position to start reading back testimony  
21 at 1:30.

22 Your conduct till then is up to you.  
23 If you want to break for lunch and come  
24 back, if you want to continue to discuss  
25 other matters, that's entirely up to you.

530

1 But it will probably be about 1:30 before  
2 we can get to a point where we can start  
3 reading back testimony. So that's what  
4 we'll do. Thank you.

5 (Proceedings recessed.)

6 (Jury in at 2:00 p.m.)

7 THE COURT: Please be seated.

8 Ladies and gentlemen of the jury,  
9 it's not easy to tell you this, but at  
10 this point both sides -- we've had some  
11 discussions on and off the record -- both  
12 sides of the case have made a motion for a  
13 mistrial.

14 Both sides believe they cannot  
15 receive, for similar and different  
16 reasons, but believe that they cannot  
17 receive a fair trial in this case. And  
18 I'm going to grant the motion, the joint  
19 motions for mistrial in this matter.

20 I do want to thank you all for the  
21 time and attention you paid in this case.  
22 And I apologize for any inconvenience that  
23 sitting through six days of this and not  
24 being able to complete your deliberations  
25 may cause you, but that's not been



1 necessarily convenient for my calendar  
2 either.

3 But on the other hand, it is  
4 important that we get a fair trial in this  
5 case. And for a number of different  
6 unrelated reasons, both sides believe that  
7 it's just not possible right now.

8 I do want to thank you for the time  
9 and attention you've given us and the time  
10 you spent.

11 Anybody that would like to stay in  
12 the jury room -- anybody that wants to  
13 leave can leave. Anybody that wants to  
14 stay in the jury room so I can talk to  
15 you, and I'll explain various things that  
16 happened during the trial, I'll be more  
17 than happy to spend time and talk with  
18 you.

19 I usually do that at the end of the  
20 deliberations but we'll be happy to do it  
21 with you here. So that's it.

22 Thank you all very much.

23 MR. RADER: Your Honor, would you  
24 convey to the jury that after today they  
25 are free to discuss the case with anyone

1           they choose, including counsel?

2           THE COURT: Well, you can discuss  
3           this case. Any admonitions I've laid on  
4           you or given to you prior to now, are  
5           officially lifted. You can discuss this  
6           case with anyone you want to, including  
7           counsel for either party.

8           You are also perfectly within your  
9           rights not to say anything to anybody  
10          about it if you don't want to. It's up to  
11          you. If you don't want to talk to  
12          anybody, any of the counsel about it or  
13          any one of the counsel or all of them, you  
14          don't have to. If you don't want to talk  
15          to me about it, it just doesn't matter at  
16          this point in time.

17          Thank you. Anybody that wants to  
18          stay, I'll be back in the jury room in a  
19          few minutes. Thank you.

20          (Jury excused at 2:15 p.m.)

21          THE COURT: Let's set a new trial  
22          date.

23          MR. RADER: Your Honor, can we do  
24          that tomorrow?

25          THE COURT: Nope. Let's just do it

1           now. When do I have a week to do this  
2           trial? Not until maybe the end of June.  
3           I'm booked on criminal cases. How about  
4           June 24th? I got that day and the  
5           following week open.

6                     This case will go a lot quicker the  
7           next time because if we're not ready with  
8           witnesses, Mr. Hall, the next time we're  
9           just going to go forward. All right?

10                    The State had their witnesses pretty  
11           much here. Sometimes your witnesses  
12           weren't. So we will just go straight  
13           through and if you don't have witnesses,  
14           that will be the end of it. We will just  
15           rest.

16                    We won't have any breaks because  
17           everybody knows what Officer Eatrides is  
18           going to testify, so I imagine we can  
19           tighten this thing up.

20                    Is June 24th okay with everybody?

21                    MR. ANDERSON: Judge, I haven't  
22           checked my calender but I will make myself  
23           available.

24                    MS. ZUCKER: Yes, Your Honor.

25                    (Proceedings concluded.)